BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2019-184-E

IN RE: South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Dominion Energy South Carolina, Incorporated's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) - S.C. Code Ann. Section 58-41-20(A)	**DOMINION ENERGY SOUTH CAROLINA, INC.'S RESPONSE TO PETITIONS FOR RECONSIDERATION OR REHEARING IN THE FORM OF A PROPOSED ORDER**

This matter comes before the Public Service Commission of South Carolina ("Commission") pursuant to Petitions for Rehearing or Reconsideration ("Petitions") 1) jointly filed by the South Carolina Coastal Conservation League and Southern Alliance for Clean Energy (collectively, "CCL/SACE") and 2) jointly filed by Johnson Development Associates, Incorporated ("JDA") and South Carolina Solar Business Alliance ("SCSBA") (collectively, "JDA/SCSBA") pursuant to S.C. Code Ann. § 58-27-2150 and S.C. Code Ann. Regs. 103-825. On December 9, 2019, the Commission issued Order No. 2019-847 that approved, among other things, 1) a methodology to calculate Dominion Energy South Carolina, Inc.'s ("DESC" or the "Company") avoided energy and capacity costs, 2) avoided energy and capacity costs for use in the Company's Rate PR-1 and Rate-Standard Offer, 3) a standard form purchase power agreement ("PPA"), 4) a notice of commitment ("NOC") form, and 5) updated components of value for Net Energy Metering ("NEM") Distributed Energy Resources. On December 19, 2019, CCL/SACE and JDA/SCSBA filed timely Petitions seeking rehearing or reconsideration of Order No. 2019-847. DESC, ORS, and the other parties of record did not file petitions for rehearing or reconsideration.[1]

The concerns raised by CCL/SACE and JDA/SCSBA are similar and, therefore, are properly addressed in a single Commission order. Having carefully considered the matters raised in these Petitions, the Commission finds that they fail to identify any basis for granting rehearing or reconsideration of Order No. 2019-847. Instead, the Commission affirms that Order No. 2019-847 did not overlook or fail to rule on any material issues, is supported by the evidence of record, and is consistent with the requirements of 2019 Act No. 62 ("Act No. 62").

STANDARD OF REVIEW

Under S.C. Code Ann. Regs. 103-825(4):

> A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:
> (a) The factual and legal issues forming the basis for the petition;
> (b) The alleged error or errors in the Commission order;
> (c) The statutory provision or other authority upon which the petition is based.

The purpose of a petition for rehearing and reconsideration is to allow the Commission to identify and correct specific errors and omissions in its prior rulings, assuming there are errors that need to be corrected or omissions that need to be addressed. Conclusory statements and general and non-specific allegations of error do not satisfy the requirements of the rule. *See In re S.C. Pipeline Co.*, Docket No. 2003-6-G, Order No. 2003-641, at 6 ("[A] conclusory statement based

[1] Petitions for reconsideration must be filed within the time limits required by S.C. Code Ann. § 58-27-2150, or else they cannot be considered by the Commission. *See* Order No. 92-44, dated Jan. 24, 1992, Docket No. 91-426-S. On December 19, 2019, DESC filed a letter informing the Commission that it would not seek rehearing or reconsideration of Order No. 2019-847, but that by doing so it did not waive or abandon any positions that it asserted in this matter, should similar issues arise in future proceedings.

upon speculation and conjecture is no evidence at all and is legally insufficient to support a [petition for reconsideration].”). While the requirement of specificity in post-trial motions is interpreted with flexibility, at minimum the decision-making body “must be able to both comprehend the motion and deal with it fairly.” *See Camp v. Camp*, 386 S.C. 571, 575, 689 S.E.2d 634, 636 (2010). Additionally, a party cannot raise issues in a motion to reconsider that were not raised during the proceeding. *See Kiawah Prop. Owners Group v. Pub. Serv. Comm’n*, 359 S.C. 105, 113, 597 S.E.2d 145, 149 (2004); *Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990); *Patterson v. Reid*, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995).

ALLEGED ERRORS CONTAINED IN THE ORDER

A. The Approved Variable Integration Charge (“VIC”) and Embedded Integration Charge (“EIC”)

A primary issue raised by both CCL/SACE and JDA/SCSBA in requesting the Commission to reconsider or rehear its decision in this matter relates to the Variable Integration Charge (“VIC”) and Embedded Integration Charge (“EIC”). In Order No. 2019-847, the Commission authorized DESC to collect from solar qualifying facilities (“QFs”) an interim integration charge of $2.29/MWh until such time as the integration study required by S.C. Code Ann. § 58-37-60(A) has been completed and the results implemented. However, CCL/SACE request that the Commission not impose any solar integration charge at this time and contend the Commission erred by approving the interim integration charge. JDA/SCSBA similarly assert the $2.29/MWH interim integration charge does not accurately reflect the actual cost of integrating solar resources on DESC’s system.[2]

[2] At pages 3-5 of their Petition for Rehearing, CCL/SACE improperly cite the procedural standards that apply to burdens of proof and burdens of persuasion in establishing utility costs for setting rates to customers. These standards do not apply to the setting of the prices utilities pay for power purchased from QFs under PURPA and related statutes.

At the outset, the Commission notes that DESC, CCL/SACE, SCSBA, and ORS each recognized in these proceedings that adding variable renewable generation to DESC's system increases operating costs. The question presented at the hearing was thus not whether there were integration costs, but rather what was the appropriate amount to be recognized to allow DESC to recover those integration costs from the developers that caused those costs. To allow solar QFs to escape responsibility for these costs, even if only for a short period of time until an integration study has been completed, would require ratepayers to bear these costs, thus resulting in an inappropriate increase of electric rates paid by ratepayers. This type of cost shifting is what the General Assembly expressly prohibited through the enactment of Act No. 62. *See* S.C. Code Ann. § 58-41-05 (renewable energy issues must be addressed "in a fair and balanced manner, considering the costs and benefits to all customers" and must ensure that "the revenue recovery, cost allocation, and rate design of utilities that [the Commission] regulates are just and reasonable"); S.C. Code Ann. § 58-41-20(A) (the Commission "shall strive to reduce the risk placed on the using and consuming public"). It therefore is not only appropriate but also statutorily required that the Commission account for these integration costs as part of its order in this proceeding. To delay the implementation of these charges would be to require ratepayers to continue to pay for the additional integration costs until the integration study has been completed.[3]

[3] JDA/SCSBA also complain that the imposition of a VIC on projects under construction would erode the profit margins of these projects and may require cancellation of these projects. There is absolutely no evidence of record to support this assertion; however, the record does reflect that these projects were implemented pursuant to contracts in which the developers agreed to pay variable integration costs once those costs were identified. It therefore is clear that these projects took, or at the least should have taken, these potential costs into account when determining the financial feasibility of these projects. Simply because some developers may not have done so does not mean that ratepayers should bear these integration costs, which are directly attributable to these solar projects, for the sole purpose of protecting the financial viability of privately-owned solar QF projects. Doing so would shift the risks of these projects onto customers, which is expressly prohibited by Act No. 62.

The question then turns to what is the appropriate integration charge for the Commission to implement. Contrary to the assertions of CCL/SACE and JDA/SCSBA, the record contains substantial evidence to support the Commission's approval of an interim integration charge of $2.29/MWh. In suggesting that it was improper for the Commission to approve this charge, CCL/SACE and JDA/SCSBA rely upon Power Advisory, LLC's ("Power Advisory") statement that it had been unable to reach specific conclusions regarding DESC's proposed VIC and EIC and that it disagreed with the analysis conducted by Navigant Consulting, Inc. As reflected in Order No. 2019-847, however, the principal basis for the Commission's adoption of the $2.29/MWh charge was the testimony of ORS Witness Horii, who testified that, although he disagreed with the Company's approach to forecasting operating reserves and certain assumptions used in calculating these integration costs, DESC provided him with the information necessary to fully evaluate this issue and that he was able to adjust DESC's proposal by reducing the solar forecast uncertainty. Tr. at 695.13. This resulted in his recommendation that DESC's integration costs be reduced by 36.2%, and thus his recommended integration cost was $2.29/MWh. *See* Tr. at 695.13 – 695.19. The Commission continues to find that Mr. Horii's testimony in this regard is a reliable basis on which to set an integration cost of $2.29/MWh pending completion of the integration study mandated by Act No. 62 and any further proceedings that may be held to consider the findings of the integration study.

Mr. Horii also reviewed the distribution of solar forecast error to determine the percentage of time that forecast error could exceed his recommended level of reserves and concluded that his proposed integration charge of $2.29/MWh was reasonable. Tr. at 695.21. He further benchmarked his analysis against other analyses, such as those proposed in the Duke Energy Carolinas, LLC and Duke Energy Progress, LLC avoided cost proceedings (Docket Nos. 2019-185-E and 2019-186-

E), which he testified provided a useful comparison of estimated integration costs. Tr. at 695.20. Similarly, Power Advisory determined that, even though it had concerns with DESC's underlying methodology to calculate the integration charge, Mr. Horii's proposed $2.29/MWh was a reasonable integration charge to be collected on an interim basis.

As indicated in Order No. 2019-847, the Commission believes that this issue should be further considered in connection with the integration study required by Act No. 62. Nevertheless, the evidence in this proceeding fully supports an interim integration charge of $2.29/MWh, which may be appropriately collected until this study has been conducted and an updated integration cost for DESC has been determined. The Commission finds that the record contains substantial evidence to support an interim integration charge of $2.29/MWh for DESC and therefore declines to rehear or reconsider this issue.

Alternatively, JDA/SCSBA suggest that the interim integration charge should be subject to downward adjustment if the integration study indicates that DESC's variable integration costs are less than $2.29/MWh, but that there be no adjustment if the variable integration costs prove to be higher than those approved in this proceeding. In this regard, JDA/SCSBA request that the Commission approve an interim charge that can only be adjusted downward to reduce costs for solar QFs but not upward if the study determines that ratepayers are paying too much for solar generation. JDA/SCSBA's position that there should be no upward adjustment is inconsistent with the mandates of Act No. 62, as it would require ratepayers to overpay for solar generation and would shift risks away from the solar generators and onto ratepayers. The Commission therefore believes that once the integration study is complete and any proceeding held to consider the findings thereof, any adjustments to the integration charges up, or down, may be applied at that time on a going-forward basis.

B. Requiring DESC to Propose Mitigation Measures Before Imposing a VIC or EIC on any Project

In further contesting the implementation of an interim integration charge, JDA/SCSBA assert that the Commission should have required DESC to propose a set of mitigation options and allow solar facilities to have an opportunity to implement such measures before any integration charge is imposed. The record, however, shows that the avoided cost methodology and related integration charges approved in this proceeding will apply principally to non-dispatchable solar generation facilities, which are the only QF facilities on DESC's system to date. To the extent it is possible in the future to mitigate variable integration costs by engineering design or contractual terms related to any specific solar generation project, those reduced costs can be incorporated into the PPA negotiated for that solar project under the avoided cost methodology approved in this case. In its testimony in this docket, DESC indicated a willingness to consider and implement as appropriate VIC mitigation proposals on a project-by-project basis, and the methodology adopted by the Commission allows such measures to be considered if proposed.[4] Thus, a solar developer should be incentivized to mitigate to the maximum extent possible the integration costs associated with its project. The resulting PPAs and their terms remain subject to Commission review and jurisdiction to ensure that these aspects of the methodology are properly applied. This regulatory structure provides a reasonable mechanism for ensuring that mitigation options will be considered on their merits going forward. Delaying the recognition of variable integration costs based on the

[4] As Company Witness Raftery testified, the methodology approved by the Commission provides for the Company to take into consideration different operating capabilities of individual solar projects in calculating an appropriate avoided cost. Tr. at 106 – 107. For example, if, as Company Witness Tanner testified, solar QF facilities could reduce their integration costs by 1) allowing DESC some ability to control the dispatch of the generation from the project, or 2) being able to replace some component of the contracted capacity of the project when generation is lower than forecasted, such capabilities can be taken into account. It would be inappropriate to delay the imposition of the integration charge for mitigation measures that may potentially be approved and implemented at some point in the future.

possibility that some solar developers may propose such measures in the future is unfair to ratepayers who must bear the full cost of variable integration in the interim. JDA/SCSBA have not provided the Commission with a valid or sufficient reason to delay consideration of VIC charges and require ratepayers to continue to pay these costs in the interim—a result which is inconsistent with Act No. 62 and its requirements that ratepayers not pay more than avoided costs net of costs imposed on the utility.

C. Approved Avoided Costs and Methodology

JDA/SCSBA and CCL/SACE also raise a number of complaints about the avoided costs and the underlying methodology approved by the Commission in this proceeding. Each of these issues is addressed in turn as follows:

1. Avoided Energy Costs and Methodology

JDA/SCSBA assert that the Commission does not reference any specific evidence in support of the adequacy or accuracy of DESC's avoided energy calculations. JDA/SCSBA further state that the implementation of the Difference in Revenue Requirements ("DRR") was not reliable in that certain aspects of DESC's calculations and methodologies were obscure and unexplained.

The Commission has reviewed Order No. 2019-847 in light of these claims and finds that they are without merit. JDA/SCSBA claim that the Commission improperly dismissed concerns that the time periods selected by DESC for use in the DRR methodology were biased against solar QFs. In Order No. 2019-847, the Commission properly determined that JDA/SCSBA failed to demonstrate how the pricing periods suggested by DESC, which relate only to non-solar QFs, were biased against solar generating facilities. In their petition, JDA/SCSBA point to no facts or arguments overlooked in Order No. 2019-847, but merely restate their position and assert that they did not have enough information to recommend alternative time periods—a tacit admission that the evidence to support their claim is lacking in the record. In short, JDA/SCSBA did not provide an alternative avoided costs calculation but limited their testimony to narrowly-based criticisms of DESC's calculation which are adequately responded to in Order No. 2019-847. Furthermore, Order No. 2019-847 sets forth the Commission's specific findings as to why the approved avoided energy costs and methodology, as modified based upon the recommendations of Power Advisory and ORS Witness Horii, are reasonable and appropriate.

As to the transparency claim, a party may not wait until discovery is completed, the factual record is closed, and an order on the merits is issued, and then argue on rehearing that its failure to present evidence should be excused because it needed more information. Broad discovery rights were available to the parties in this proceeding and no party complains that the Commission failed to properly compel responses to deficient discovery requests. Therefore, these claims are deemed to be waived.

These procedural defaults aside, the Commission also is not convinced that JDA/SCSBA in fact did not have adequate access to the information necessary considering that other parties of record were able to propose alternative avoided energy costs and methodologies for the Commission's consideration and Mr. Horii's testimony on this issue affirmatively supported the sufficiency of the information made available. In short, JDA/SCSBA's complaints do not establish or reveal any error by the Commission, nor do they demonstrate that Order No. 2019-847 is "clearly erroneous" or is otherwise defective in any way. *See* S.C. Code Ann. § 1-23-380(5).

2. Technology-Neutral Avoided Energy Rates

JDA/SCSBA request that the Commission reconsider its rejection of SCSBA's proposed alternative for technology-neutral avoided energy rates, alleging that the Commission misunderstood Power Advisory's recommendations concerning technology-neutral rates and the need to develop large numbers of "groupings" to calculate such rates. Although the Commission is not convinced that Power Advisory intended its reference to "groupings" to mean groupings of hours as JDA/SCSBA suggest, there is ample evidence in the record to show that it is just, reasonable, and entirely appropriate to set specific avoided cost rates for solar QFs based on solar generation profiles. All of the 1,048 MW of QF power currently under contract in DESC's service area is non-dispatchable solar generation. It therefore is reasonable to establish an avoided energy rate structure based upon a non-dispatchable solar profile and a second structure for non-solar QF generation should any be proposed. Rate PR-1 and Rate PR-Standard Offer set forth solar and non-solar rates that accurately reflect the avoided costs for solar and non-solar QFs. In addition, DESC committed to filing a solar plus storage tariff by the end of 2019, tr. at 66.23, which commitment DESC has fulfilled with its filings in Docket No. 2019-393-E made on December 30, 2019. The Commission finds that setting separate rates for different generation technologies is appropriate and will more accurately reflect avoided costs associated with those technologies. Furthermore, JDA/SCSBA will have the opportunity to review and comment on the solar plus storage tariff proposed by DESC in Docket No. 2019-393-E for power generated by solar plus storage QF facilities, therefore, rehearing or reconsideration of this matter is not necessary or warranted.

3. Capacity Value

The Commission also is not persuaded by JDA/SCSBA's assertion that the Commission was legally required to approve an 11.8% capacity value for solar generation as recommended by ORS instead of the 4% recommended by Power Advisory. Power Advisory recommended setting the capacity value of solar based on the ELCC and found Dr. Lynch's quantification of that value to be reliable for that purpose. Dr. Lynch testified that the first 500 MW tranche of solar had a 37% ELCC value, the second 500 MW tranche had an ELCC value of 11.8%, and the next 100

MW tranche of solar had an ELCC value of 4%. This analysis was reviewed and accepted by Power Advisory as appropriately quantifying the capacity value of solar generation for the first 100 MW of solar generation above the 1,048 MW currently under contract. The Commission finds the report of Power Advisory and the testimony of Dr. Lynch in this regard to be convincing evidence that the capacity value of the solar generation going forward on DESC's system is 4%.

The Commission rejects JDA/SCSBA's suggestion that the Commission should increase the capacity value for future solar projects by assuming that not all of the roughly 500 MW of unconstructed projects that currently have PPAs will actually become operational. DESC already has 1,048 MW of solar under contract. Therefore, DESC is contractually committed to paying the owners of these project avoided capacity costs based on system requirements at the time the contracts for these projects were negotiated. To ignore these contractual requirements and require DESC to lock in the higher historical capacity costs for new projects would be unfair to ratepayers.

Moreover, under the methodology approved in this docket, capacity values are not static. They are subject to review in future negotiations and future proceedings. If certain of the projects currently under contract in fact are not constructed or are not placed into service, then future avoided costs would be recalculated based on those changed circumstances in a future proceeding to be held pursuant to Act No. 62 and would be reflected in future calculations based on the methodology approved in this proceeding. Accordingly, future QFs will not be harmed, but will be able to interconnect with DESC based upon the appropriate avoided costs in effect at the time they execute a PPA and based upon the amount of solar generation then under contract.

If there are defaults on existing contracts, that fact will be taken into account in setting future capacity values. On the other hand, setting avoided capacity costs in the manner proposed by JDA/SCSBA would require the Commission to engage in speculation as to the level of future defaults or terminations of existing PPAs. These are hypothetical future occurrences, and the record provides no evidence to base a determination as to what future levels of defaults or termination will occur. Instead, the Commission must set capacity values based upon the facts presented in the record that reflect that DESC currently has 1,048 MW of solar currently under contract. The appropriate capacity value for the next 100 MW of solar capacity is the 4% ELCC value that specifically reflects the value of the next 100 MW of solar capacity to be added to DESC's system after taking into account the 1,048 MW of solar that is currently under contract.

4. Avoided Costs in General

JDA/SCSBA and CCL/SACE assert that the avoided costs approved in Order No. 2019-847 are improper because they will hinder the expansion of solar QF facilities in South Carolina, and that this result is contrary to the intent of Act No. 62. But Act No. 62 is not so simple or one-sided. It strikes a careful balance between the interest of solar project owners and the interest of utility ratepayers. Solar projects are not to be discriminated against in the setting of avoided cost rates. The full measure of avoided costs (net of incremental costs incurred by the utility) are to be reflected in the price paid to solar project owners. Act No. 62 also protects ratepayers by expressly requiring, as does PURPA, that no more than actual avoided costs are to be paid to solar owners. To pay more is to shift costs to ratepayers, which Act. No. 62 clearly prohibits.

Within this statutory construct, the Commission must set QF rates that fairly account for the costs avoided by DESC's ratepayers as additional solar generation is added to the system. S.C. Code Ann. §§ 58-41-20(B)(3), 58-4-10(2). These avoided costs change with fuel prices, generation mix, and the future capacity needs of the system. Therefore, to comply with its statutory obligation, the Commission must take into account changed circumstances from prior proceedings and evaluate avoided energy and capacity costs as they exist today on DESC's system. Incremental energy prices are lower than in the past in part due to the sustained low cost and high availability of natural gas for electric generation. In addition, it is undisputed that DESC currently has 1,048 MW of solar generation under contract—nearly one-quarter of its peak demand—which has greatly depressed DESC's need for additional generation capacity and therefore its avoided capacity costs. These facts necessarily mean that DESC's avoided costs have decreased from those calculated when energy costs were projected to be higher and there was less solar capacity on DESC's system.

There also is no substance to the suggestion that Order No. 2019-847 decreased avoided cost rates below actual avoided costs to favor ratepayers, as JDA/SCSBA appear to suggest. In Order No. 2019-847, the Commission sought to do precisely what Act No. 62 requires, which is to establish avoided cost rates that are fair to solar owners and ratepayers by accurately reflecting current conditions on DESC's system. Order No. 2019-847 properly acknowledges that the avoided cost rates approved in prior dockets would not be justified under current conditions, and if adopted as requested by JDA/SCSBA and CCL/SACE, ratepayers would be required to pay solar owners more than DESC's actual avoided costs as they exist today. This would violate Act No. 62.

JDA/SCSBA and CCL/SACE also state that the approved avoided costs are so low as to block entrants to the market and to preclude large-scale solar projects sited within DESC's service territory from receiving financing. The ability to finance solar projects has never been considered or identified as a factor in establishing avoided costs, either under PURPA, Act No. 62, or otherwise.[5] Neither PURPA nor Act No. 62 contain an exception allowing rates to be set above

[5] These issues can be of relevance to duration and the terms and conditions of power purchase agreements, but not to avoided cost calculations.

avoided costs to ensure availability of financing or for any other reason. Accordingly, and quite appropriately, at the hearing in this proceeding, no party put forward testimony establishing what avoided cost rate would be required to make solar developments financeable, assuming such a rate could be calculated in the abstract, given the different costs of construction, land, interconnection, overheads, and cost of capital among projects. To have presented such evidence would have been to argue for a rate that exceeds avoided costs, which is not statutorily permitted.[6] Therefore, there is no evidence of record on which to justify findings of financeability, even if such a consideration were statutorily relevant to the avoided cost calculation.

5. In the Alternative, Maintaining 2018 Avoided Costs

In the event the Commission declines to rehear or reconsider its decision regarding the various avoided cost components considered in this matter, JDA/SCSBA alternatively suggest that the Commission should reinstate the avoided costs approved by the Commission in the Company's 2018 fuel case, Docket No 2018-2-E. The Commission finds this suggestion to be wholly inconsistent with its obligations under Act No. 62.[7] The resulting rates would be higher than current avoided costs and would result in an unfair shifting of costs to ratepayers.

The avoided costs that were approved in Order No. 2018-322(A) are based on data that now is almost two years old. While there may be some dispute as to what the precise level of avoided costs should be, there is no evidence of record showing that the costs approved in Order

[6] CCL/SACE Witness Chilton testified that DESC's proposed avoided cost rates, which are lower than those ultimately approved by the Commission, "may not be financeable" or that it may be "difficult for most projects to obtain financing for a 10-year contract." Tr. at 462.10. And SCSBA Witness Hamilton Davis stated that lower avoided costs would make project financing "increasingly challenging." Tr. at 544.21. But the fact that financing may be more challenging to acquire does not mean that financing is unavailable to future solar QF projects under certain terms. Additionally, the Commission notes that the avoided costs approved in this proceeding are *higher* than those proposed by DESC, which suggests financing of these projects would be more readily available than suggested by CCL/SACE's and JDA/SCSBA's witnesses.

[7] JDA/SCSBA's request in this regard also is puzzling considering that SCSBA appealed the Commission's decision in Docket No. 2018-2-E and alleged that the 2018 avoided costs significantly under-value solar generation.

No. 2018-322(A) would be reasonable under current conditions. All indications are that they would be excessively high in light of current conditions. Continuing to use the 2018 avoided costs would ignore the significant changes in circumstances since that proceeding, such as the increase in solar generation, updated natural gas forecasts, recognition of integration costs, and other factors. As a result, there is no evidence to suggest that the 2018 avoided costs continue to be accurate. Instead, the evidence indicates that there is a significant likelihood that these costs—which are to be borne by ratepayers—would be excessive and, therefore, contrary to the requirements of PURPA and Act No. 62.

D. Tenor of PPAs

The requirements of Act No. 62 and the record also do not support reconsideration of the Commission's rejection of CCL/SACE's and JDA/SCSBA's proposals for PPAs with tenors exceeding 10 years. As explained in Order No. 2019-847, the plain language of Act No. 62 states that the Commission must approve PPAs with commercially reasonable terms and a duration of 10 years. S.C. Code Ann. § 58-41-20(F)(1). A 10-year term is reflected in the Rate PR-Form PPA approved in Order No. 2019-847. Act No. 62 further states that the Commission "may also approve commercially reasonable fixed price power purchase agreements with a duration longer than 10 years, which must contain additional terms, conditions, and/or rate structures **as proposed by intervening parties** and approved by the commission, **including, but not limited to, a reduction in the contract price relative to the ten year avoided cost**." *Id.* (emphasis added). Although JDA Witness Chilton suggested that the Commission should require PPAs with terms of up to 20 years, no party proposed any additional terms and conditions for such contracts, which is what Act No. 62 expressly requires the intervenors to do. More importantly, in order to approve contracts with tenors longer than 10 years, the plain language of Act No. 62 specifically requires the intervening parties to propose a reduction in the contract price relative to the approved 10-year avoided cost. No party did so in this proceeding and, therefore, there is no record upon which the Commission could permissibly base a decision setting avoided costs for a PPA with a term of 15 to 20 years as CCL/SACE and JDA/SCSBA suggest should be done.

The Commission also is not persuaded by JDA/SCSBA's claim that the Commission's interpretation of the statute "was not known to any party at the time of the hearing and, thus, evidence was not available to satisfy this interpretation." The plain language of S.C. Code Ann. § 58-41-20(F)(1) requires intervenors to propose additional terms, conditions, and/or rate structures and to propose a reduction in the contract price relative to the 10-year avoided cost. The intervenors simply failed to offer the evidence clearly required by Act No. 62.

Finally, the Commission declines to adopt CCL/SACE's and JDA/SCSBA's suggestions that PURPA and Act No. 62 were intended to ensure the financial feasibility of QF projects and that, therefore, the Commission is obligated to approve PPAs with longer tenors. This is a question that could only be reached if the intervenors had proposed a PPA with terms longer than 10 years and the avoided costs associated with PPAs of those terms, which they did not do.

E. Transparency

Finally, JDA/SCSBA reassert their previous position that DESC's filings were not in compliance with the transparency requirements of Act No. 62. CCL/SACE similarly cite to portions of the Power Advisory report to suggest that DESC did not satisfy the transparency standard outlined in Act No. 62. However, neither JDA/SCSBA nor CCL/SACE presented any legally sufficient argument warranting rehearing or reconsideration of the Commission's determination that DESC satisfied the requirements of S.C. Code Ann. § 58-41-20(J) and that the Company's avoided cost filing was reasonably transparent as required by Act No. 62.

Pursuant to S.C. Code Ann. § 58-41-20(J), DESC's avoided cost filing was required to be "reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission." As stated in Order No. 2019-847, ORS Witness Horii testified that the Company's filings in this matter were reasonably transparent for his independent review and analysis and that DESC provided data responses and supporting information that allowed ORS to conduct its analysis of the Company's proposals and develop recommendations regarding the implementation of Act No. 62. Additionally, SCSBA Witness Burgess and other parties were able to present alternative avoided cost values, methodologies, and other alternative proposals using the information provided by DESC.

Although JDA/SCSBA and CCL/SACE complain that they desired additional information from DESC in this proceeding, it is apparent from the various recommendations offered in this proceeding that the Company made available the information necessary for the parties to independently review and verify DESC's proposals. The Commission recognizes that information regarding avoided costs and the underlying methodologies is technical and requires a certain level of expertise to understand. However, it is unreasonable to suggest that Act No. 62 requires electrical utilities to anticipate every conceivable piece of information a party may desire and produce that information at the outset of a proceeding in order to be "transparent." Rather, it is incumbent upon a party participating in a proceeding such as this to do so in a meaningful way by securing witnesses or consultants, such as ORS Witness Horii, with the level of expertise necessary to perform the requisite analyses and present alternative proposals that are reasonable and consistent with the requirements of Act No. 62 and other relevant authorities. Simply because JDA/SCSBA's and CCL/SACE's witnesses may not have devoted the necessary time to analyzing the data or may not have had the technical expertise necessary to properly analyze the data provided does not mean that DESC failed to comply with its obligations under S.C. Code Ann. § 58-41-20(J). For this and the other reasons articulated in Order No. 2019-847, the Commission therefore declines to rehear or reconsider its finding on this issue.

CONCLUSION

The Commission has considered the issues presented in the Petitions for Rehearing or Reconsideration. The Commission finds that there is substantial, adequate, and sufficient evidence contained in the record to support the Commission's decision set forth in Order No. 2019-847. Therefore, based upon the testimony and evidence contained in the record before us, the Petitions do not present sufficient grounds to modify, amend, or rehear the matter decided in Order No. 2019-847 and, accordingly, the Commission denies the Petitions.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

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Comer H. Randall, Chairman

ATTEST:

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(SEAL)